THE HON'BLE SRI BILAL NAZKI, THE ACTING CHIEF JUSTICE

AND

THE HON'BLE SRI JUSTICE R.SUBHASH REDDY

WRIT APPEAL No. 1985 of 2005

24-10-2005

Between:

The Special Deputy Collector, Priyadarshini Jurala Project,

Gadwal, Mahaboobnagar District & Others.

.....APPELLANTS

AND

Parigi Munnappa & Others.

.....RESPONDENTS

THE HON'BLE SRI BILAL NAZKI, THE ACTING CHIEF JUSTICE

AND

THE HON'BLE SRI JUSTICE R.SUBHASH REDDY

WRIT APPEAL No. 1985 of 2005

JUDGMENT : (Per Hon'ble Sri Bilal Nazki, ACJ)

This is an appeal filed against the order passed by a learned Single Judge in Writ Petition No.12879 of 2005. The writ petitioners challenged a Memorandum passed by the Government on 09.05.2005. This is an interesting Memorandum. It appears certain lands were notified under Section 4(1) of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act') for the purpose of acquisition. These lands also had some structures, therefore, the owners of the lands approached this Court and obtained directions for consideration, and the Government passed the impugned Order. In para 15 of the order, it is stated;

> *"15. Keeping in view of the High Court direction in W.P.No. 16718/03, dated 05-09-2003 and Joint Inspection Report of the Executive Engineer and Special Deputy Collector Dated 17-10-2003, which was as per orders of High Court, report of the Mandal Revenue Officer Dated 20-01-1994, and report of District Collector, Dated 04-04-2005, the Government decided to* ***exclude*** *these structures from notifying under Land Acquisition Act for acquisition as the evidence on record is amply enough to prove that the structures were constructed with malafide intention to claim unjust compensation."*

The reasons given for this order can be found in para 7 of the order as under;

> *"7. As per the directions of the High Court, a joint inspection was done by the Executive Engineer, P.J.P., LAR Division, Gadwal and Special Deputy Collector, LA Unit, PJP, Gadwal on 17-10-2003. The Joint Inspection report shows that there are 81 structures in Sy.No.134 and 3 structures in Sy.No.139. The report also indicates that these structures were constructed un-authorizedly and illegally during the year 1993 by knowing fully well that these lands are going to be submerged and acquired under PJP with malafide intention to get the huge compensation from the Government. Report concluded that no compensation be paid for these structures."*

We fail to understand if on the date of notification under Section 4(1) of the Act certain structures exist on the land, which the Government

wants to acquire for public purposes, how can the Government refuse to pay compensation for such buildings or structures. A person, who owns property, is the master of his property and unless it vests with the State, the State cannot say that the structures were created only to get enhanced compensation. There is no such law and the learned Government Pleader has also not been able to show us any law or authority, by which, compensation could be refused to the writ petitioners for the structures that were in existence on the day when the notification under Section 4(1) of the Act was issued. Even the Committee appointed by the Government, had come to a conclusion that the structures had been made in 1993. The notification for acquisition was issued in 2005. For these reasons, we feel that there is no scope for us to interfere in the order passed by the learned Single Judge in quashing the impugned order and directing inclusion of structures in notification under Section 4(1) of the Act.

Appeal is accordingly dismissed. No order as to costs.

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(BILAL NAZKI, ACJ)

24th October 2005.

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(R.SUBHASH REDDY, J)

ajr